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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/840,825	04/25/2001	Tetsuya Hirakawa	Q64165	6097

7590 05/05/2004

SUGHRUE, MION, ZINN, MACPEAK & SEAS  
2100 Pennsylvania Avenue, N.W.  
Washington, DC 20037-3202

EXAMINER
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GART, MATTHEW S

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 05/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/840,825

Applicant(s)

HIRAKAWA, TETSUYA

Examiner

Matthew s Gart

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 April 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_

## DETAILED ACTION

### *Priority*

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Japan on 5/17/2000. It is noted, however, that applicant has not filed a certified copy of the JAPAN 2000-145128 application as required by 35 U.S.C. 119(b).

Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

### *Specification*

Applicant is reminded of the proper language and format for an abstract of the disclosure. The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1-8 rejected under 35 U.S.C. 102(e) as being anticipated by Hamada  
US 2001/0056394.**

Referring to claim 1. Hamada discloses a sales system for selling a product by using the Internet, comprising:

- A user terminal connected to the Internet (Hamada: Figure 1 and Figure 3); and
- A supplier terminal (Hamada: Figure 1 and Figure 3) which, upon receiving an application for purchasing the product from the user terminal via the Internet, charges a commission fee from the user operating the user terminal (Hamada: paragraph 0060, "Furthermore, where the prospective option purchaser must separately pay a commission to participate in this system, the system offers the benefit of reducing the commissions of the product registrant and the prospective product bidders."), randomly selects a price of the product from a plurality of prices within a predetermined price range (Hamada: paragraph 0108), and presents the selected price on the user terminal together with a predetermined term of validity (Hamada: claim 1, "...carries out processing in accordance with the terms of the option.").

The Examiner notes, claim 1 as written does not distinguish who randomly selects a price of the product from a plurality of prices within a predetermined price range. Within the context of Hamada, the options purchaser selects an option price.

Referring to claim 2. Hamada further discloses a sales system, wherein the supplier terminal stores the standard price of the product (Hamada: Figure 8, "Minimum Bid Price"), and the commission fee is determined by multiplying a predetermined rate

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to the standard price (Hamada: paragraph 0060, "Furthermore, where the prospective option purchaser must separately pay a commission to participate in this system, the system offers the benefit of reducing the commissions of the product registrant and the prospective product bidders.").

Referring to claim 3. Hamada further discloses a sales system, comprising an audit authority terminal for supervising the settings of the prices by the supplier terminal (Hamada: Figure 1, "Server").

Referring to claim 4. Hamada further discloses a sale system, comprising a reselling function for reselling the privilege to purchase the product at the price presented by the supplier terminal to a third person (Hamada: claim 5).

Referring to claims 5-8. Claims 5-8 are rejected under the same rationale as set forth above in claims 1-4.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bigus, U.S. Patent 6,401,080, June 4, 2002, discloses an intelligent agent with negotiation capability and method of negotiation therewith.

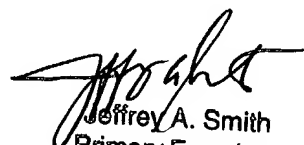
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew s Gart whose telephone number is 703-305-5355. The examiner can normally be reached on 8:30AM to 5:00PM m-f.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 703-308-1344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MSG  
April 23, 2004

  
Jeffrey A. Smith  
Primary Examiner